

STATE OF CALIFORNIA
Court of Appeal
FIRST APPELLATE DISTRICT
350 MCALLISTER STREET
SAN FRANCISCO, CA 94102-3600

EVELYN C. ROWAN
MEDIATION PROGRAM COORDINATOR
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CONFIDENTIALITY NOTE

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FACSIMILE COVER SHEET

Transmitting to -

Name: Andrew Wilson, Esq. (415) 289-7110
Ford Greene, Esq. (415) 456-5318

Date: July 19, 2004

Re: Church of Scientology International v. Armstrong
Case No: A107100

NOTE: Complete the attached CASE SCREENING FORM and FAX to (415) 865-7374 by no later than July 26, 2004. You also must serve a copy on all other counsel.

Total number of pages, INCLUDING cover sheet: 7

If you do not receive all pages, please call (415) 865-7373

Rule 3.5. Mediation in Civil Appeals

(a) [Mediation Program] To aid the expeditious and just resolution of civil appeals, the Court of Appeal for the First District has established a mediation Program ("Program"). Procedures for mediation and operation of the Program shall be promulgated by the First District Mediation Committee ("Committee"). The Program will be directed by a Mediation Program Administrator ("Administrator") acting under Committee procedures and supervision by the Administrative Presiding Justice or a designated Supervising Justice. This rule is not meant to replace Local Rule 3, but to create an additional alternative dispute resolution process.

(b) [Scope of Mediation Program] Any civil appeal may be placed in the Program if selected by the Administrator or requested in writing by a party. The Administrator may remove an appeal from the Program and shall record the reasons for removal.

(c) [Mediators] The Committee shall specify the qualifications, training, and process for appointment of mediators in the Program. The Administrator will assign mediators to appeals. Mediation services will be furnished by the Court without fee to the parties, provided that a mediation session exceeding 4 hours may be terminated by the mediator unless the parties and the mediator agree upon a fee payable to the mediator for continued services. The Administrator may replace a selected mediator upon written request by a party supported by a showing of good cause or upon request of the mediator.

(d) [Mediation Process]

(1) Within 10 days of the filing of the notice of appeal, the appellant shall file with the Clerk and shall serve on all other parties a completed Case Screening Form. Within 15 days of the filing of the notice of appeal, the other parties shall file with the Clerk and shall serve on all other parties their Case Screening Forms. The Case Screening Forms shall be transmitted by the Clerk to the Administrator and shall not be entered in the court file.

(2) The Administrator, within 10 days of receipt of the Case Screening Forms, shall notify the parties when a case is selected for mediation and furnish the name, address and telephone number of the mediator. At the same time, the Administrator shall furnish the mediator copies of the Case Screening Forms.

(3) The Administrator, within 5 days of selection of the mediator, shall furnish to the parties 3 dates within the next 30 days when the mediator is available for the mediation session.

(4) The parties, within 5 days of receipt of these dates, shall advise the Administrator of their scheduling preferences. The Administrator, after conferring with the mediator, promptly shall select the date and site for the mediation session and shall notify the parties.

(5) The mediator, with the approval of the Administrator, may, for good cause, postpone or continue a mediation session to a date certain.

(6) The mediator may require parties or their counsel to furnish information, documents, records or other items specified by the mediator.

(7) The mediator may at any time communicate with any of the parties or their counsel with or without notice to the other parties or their counsel.

(8) All parties and their counsel must attend all mediation sessions in person. If the party is not an individual, then a party representative with full authority to settle all appeals and cross-appeals must attend all mediation sessions in person, in addition to counsel. If a party has potential insurance coverage applicable to any of the issues in dispute, a representative of each insurance carrier whose policy may apply also must attend all mediation sessions in person, with full settlement authority. Any exception to this requirement must be approved in writing by the Administrator.

The mediator may invite participation by any additional person or entity if the mediator concludes that such participation would facilitate mediation.

(9) No later than 10 days after completion of mediation, the mediator shall submit to the Administrator a Mediation Attendance Form, listing all participants in the mediation, and a Mediator's Statement, notifying the Administrator of the results of the mediation.

(10) No later than 10 days after completion of mediation, the parties and their counsel shall separately complete and submit to the Administrator evaluations of the mediation and the mediator on a form provided by the Administrator.

(11) The parties and their counsel shall take the steps necessary to implement the agreements reached in mediation.

(e) [Confidentiality] Except as otherwise required by law, information disclosed to the mediator, the parties, counsel, or any other participant in the mediation, or to the Administrator or the Coordinator of the mediation Program, shall be confidential and shall not be disclosed to anyone not participating in the mediation Program.

(f) [Ethical Standards] Mediators shall adhere to the rules of conduct for mediators in court-connected mediation programs for civil cases, California Rules of Court, rules 1620-1620.9.

(g) [Appellate Process] Parties and counsel shall comply with all rules applicable to processing appeals while concurrently participating in the mediation Program.

(h) [Sanctions] Monetary sanctions may be imposed by the Administrative Presiding Justice or Supervising Justice for failure to comply with these rules.

(Adopted, eff. Feb. 1, 2000, amended eff. October 7, 2002).

COURT OF APPEAL, FIRST APPELLATE DISTRICT
MEDIATION PROGRAM INFORMATION
*(See the attached local rule 3.5 and Case Screening Form
and the instructions on the next page.)*

Under local rule 3.5, the Court of Appeal, First Appellate District, may select your case for mandatory mediation, or any party may confidentially request in writing to be included in the mediation program. Either way, mediation is an opportunity to be welcomed by you and your client.

Mediation

Mediation is an informal, *confidential* process in which a neutral party (the mediator) assists the parties in understanding their own interests, the interests of the other parties, and the practical and legal realities they all face. The mediator helps the parties explore options and arrive at a mutually acceptable resolution of the dispute. The mediator does not resolve the dispute. The parties do.

Advantages of appellate mediation

- **Mediation can avoid the risk of reversal.** Even if you have obtained a judgment in the trial court, there is a significant chance that it may be reversed on appeal and remanded for further, costly proceedings.
- **Mediation can avoid financial risk.** A judgment may be worth less than face value if there is a significant risk that the judgment debtor will go bankrupt or if a delayed judgment satisfaction will have adverse effects. In addition, a mediated resolution may avoid or mitigate unfavorable tax effects.
- **Mediation can bring more satisfactory results.** Often the trial court judgment does not satisfy even the prevailing party. A mediator can assist the parties to achieve their real interests.
- **Mediation can save money.** The mediation process begins at the outset of the appeal. This can save substantial costs of preparing the record and briefs.
- **Mediation can save time.** Mediation can resolve a dispute in a matter of days, while an appeal can take months.
- **Mediation can provide greater client participation.** Clients often are frustrated by a restricted role in pretrial and trial proceedings. Once the trial record is complete, clients can have greater participation and satisfaction in determining the resolution of their disputes. Often, this aids attorney-client relations.
- **Mediation can reduce stress.** Mediation encourages cooperation and communication, while discouraging the adversarial atmosphere of litigation. Litigation is very stressful. Most people reach a point where they want to get on with their life, with their business, and, sometimes, with their relationship with other parties.

Subject matter

Although some disputes require an appellate decision, almost any dispute can be resolved through mediation. This includes disputes involving business matters, civil rights, corporations, construction, consumer protection, contracts, copyrights, defamation, disabilities, discrimination, domestic relations, employment, environment, harassment, health care, housing, insurance, intellectual property, labor, landlord/tenant relations, the media, medical malpractice and other professional negligence, neighborhood problems, partnerships, patents, personal injury, probate, product liability, property damage, real estate, securities, sports, and taxes, among other matters.

Mediators

The court has recruited experienced mediators and appellate specialists, based on their training, experience, and performance. In addition, the court provides intensive training in appellate mediation. A mediator will be matched to specific disputes, normally on a pro bono basis, or the parties may choose their own mediator at market rates, as long as the mediator follows the rules and policies of the court's mediation program.

Mediation process

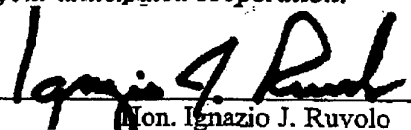
The mediation process commences as soon as possible after the filing of the *Notice of Appeal*, to save the parties as much money and time as possible in record and brief preparation. If your case is selected, you will be contacted promptly by the mediation program administration with instructions, assignment to a mediator, and scheduling of a confidential mediation session. After the mediation session, participants evaluate the mediation, the mediator, and the mediation program. ***Evaluation is essential to maintaining the quality of the mediation program and is required by local rule 3.5. The mediation process does not extend the time periods for preparation of the record, briefing, or other aspects of the appeal.***

Instructions

Appellants: Within 10 days of the filing of the *Notice of Appeal*, file a completed Case Screening Form and pertinent documents with the clerk of this court and serve all other parties with a copy of **ALL OF THE FOLLOWING**: (1) your completed Case Screening Form, (2) a blank Case Screening Form, (3) this information sheet, and (4) local rule 3.5.

Other parties: Within 15 days of the filing of the *Notice of Appeal*, file a completed Case Screening Form with the clerk of this court and serve it on all other parties.

For further information, call the mediation program administration, 415-865-7373. Thank you for your anticipated cooperation.



Hon. Ignazio J. Ruvolo
Associate Justice, First Appellate District



John A. Toker
Mediation Program Administrator

COURT OF APPEAL, FIRST APPELLATE DISTRICT CASE SCREENING FORM

This form should be submitted to the clerk of the Court of Appeal for transmittal to the mediation program administrator. The form will not be entered in the court file. Attach pertinent documents, e.g., any judgment, findings of fact, statement of decision, or order appealed from. Attach additional pages if necessary.

Case Name: _____ Case No: _____

Your Name: _____ State Bar No.: _____

Counsel for: _____

Subject Matter (Check all that apply):

- | | | |
|---|--|--|
| <input type="checkbox"/> Attorney's Fees | <input type="checkbox"/> Family Law | <input type="checkbox"/> Personal Injury |
| <input type="checkbox"/> Business/Contract | <input type="checkbox"/> Insurance | <input type="checkbox"/> Probate |
| <input type="checkbox"/> Construction | <input type="checkbox"/> Intellectual Property | <input type="checkbox"/> Professional Negligence |
| <input type="checkbox"/> Employment | <input type="checkbox"/> Medical Malpractice | <input type="checkbox"/> Real Estate |
| <input type="checkbox"/> Other (specify): _____ | | |

Number of Parties: _____ Date Notice of Appeal Filed: _____

Appellant: _____ Counsel: _____

Firm: _____

Address: _____

Tel: _____ FAX: _____ E-mail: _____

Respondent: _____ Counsel: _____

Firm: _____

Address: _____

Tel: _____ FAX: _____ E-mail: _____

Cross-Appellant: _____ Counsel: _____

Firm: _____

Address: _____

Tel: _____ FAX: _____ E-mail: _____

Other Parties: _____ *See Attachment.*

Trial Court: _____ Case No.: _____

Trial Judge: _____

The trial court judgment resulted from:

- Jury Trial Court Trial Summary Judgment Demurrer
 Dismissal Nonsuit Arbitration Award Administrative Mandamus
 Order (specify): _____
 Other (specify): _____

What was the judgment?: _____

What was the last settlement demand? \$ _____ Offer \$ _____

Identify all ADR processes in this case in which you have participated (e.g., mediation, arbitration, or settlement conferences). *State the name of all judges, mediators, or other neutral parties involved:* _____

Briefly state the facts of this case:

List the appellate issues that you anticipate:

This is a case of first impression.

(Specify): _____

This case principally involves the validity or interpretation of a statute, ordinance, or regulation.

(Specify): _____

Related case or cases:

Name: _____ Court: _____ No. _____

What is the outcome that you seek in this case?

Damages *(specify):* \$ _____

Equitable Relief: *(specify):* _____

Other *(specify):* _____

Describe any ongoing personal, professional, or business relationship between any of the parties to this appeal: _____

Identify all persons, other than the parties, whose agreement is necessary for the settlement of this appeal and any related litigation or dispute (e.g., an insurance adjuster, spouse, or lien holder): _____

What else should be considered in determining whether this case should be submitted to mediation?